

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, ) Criminal  
 ) No. 13-269 (DLI)  
Government, )  
 ) SENTENCING  
vs. )  
 ) Brooklyn, New York  
JOHN SAMPSON, ) Date: January 18, 2017  
 ) Time: 10:00 a.m.  
Defendant. )

TRANSCRIPT OF SENTENCING  
HELD BEFORE  
THE HONORABLE CHIEF JUDGE DORA L. IRIZARRY  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

For the Government: Alexander A. Solomon, AUSA  
Paul Tuchmann, AUSA  
Maria Seifan, AUSA  
US Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East, 4th Floor  
Brooklyn, New York 11201  
718-254-6074

For the Defendant: Nick Akerman, Esq.  
Joshua Colangelo-Bryan, Esq.  
Dorsey & Whitney LLP  
51 West 52nd Street  
New York, New York 10019  
212-415-9217

Also Present: Cheryl Fiorillo, US Probation Office

Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription.

Court Reporter: Annette M. Montalvo, CSR, RDR, CRR  
Official Court Reporter  
United States Courthouse, Room N375  
225 Cadman Plaza East  
Brooklyn, New York 11201  
718-804-2711

1 (Open court; 10:20 a.m.)

2 THE COURTROOM DEPUTY: Criminal cause for  
3 sentencing. Docket No. 13-CR-269. *United States v. John*  
4 *Sampson*.

5 Please state your appearances.

6 MR. TUCHMANN: Paul Tuchmann for the United States.  
7 Good morning, Your Honor.

8 THE COURT: Good morning.

9 MR. SOLOMON: Good morning, Your Honor. Alex  
10 Solomon.

11 MS. SEIFAN: Good morning, Your Honor. Marisa  
12 Seifan for the United States.

13 THE COURT: Good morning.

14 THE PROBATION OFFICER: Good morning, Judge. Cheryl  
15 Fiorillo, US Probation.

16 THE COURT: Good morning.

17 MR. TUCHMANN: With us at counsel table, Kenneth  
18 Hosey of the FBI.

19 MR. HOSEY: Good morning.

20 THE COURT: Good morning.

21 MR. AKERMAN: Your Honor, Nick Akerman for  
22 Mr. Sampson.

23 THE COURT: Good morning.

24 MR. COLANGELO-BRYAN: Good morning, Judge. Joshua  
25 Colangelo, Dorsey & Whitney, also for Mr. Sampson.

1 THE COURT: Good morning.

2 And good morning, Mr. Sampson.

3 Everyone, please have a seat.

4 I am going to ask everyone please to remain seated  
5 so that we can all hear each other better, and we have a lot  
6 of folks in the audience, a lot of observers. I am sure  
7 family members and friends of Mr. Sampson as well, good  
8 morning to all of you. And they will not be able to hear  
9 anything, I guarantee, unless we speak into the microphones.  
10 So please try to keep your voices up and speak into the  
11 microphones as much as -- while we are having this proceeding.

12 Before we actually get to the substance of  
13 sentencing, I just want to review with you, Mr. Sampson, and  
14 also for the sake of our members of the audience, I want to  
15 review with you how it is that we are going to proceed this  
16 morning.

17 The first thing that I am going to do is I am going  
18 to place on the record everything that I have received and  
19 considered with respect to sentencing. That's for two reasons  
20 that are interrelated. First, so that all of you, all of the  
21 parties, are assured that I, in fact, have received everything  
22 I should have received and considered with respect to  
23 sentencing, and, also, sort of interrelated with that, so that  
24 all of you, all of the parties, are assured that I indeed --  
25 that all of you have received everything that I have received

1 so that we are all working with the same information.

2           Next, to the extent that there are still outstanding  
3 objections to the pre-sentence report, and given the nature of  
4 the arguments that are contained in the sentencing memoranda,  
5 I am assuming that the parties have adhered to at least some  
6 of the original objections that were made to the pre-sentence  
7 report, both on the part of the government and on the part of  
8 the defense, so I will resolve those objections. And then as  
9 I am required to do, I will make a finding as to what the  
10 sentencing guideline range is in this case. Indeed, some of  
11 the objections relate to the calculation of the guideline  
12 range. I, of course, have to make that final determination.  
13 And we start with that even though the guidelines are  
14 advisory, and even though I have to consider other things than  
15 just the guideline range, and that would include any  
16 sentencing policies, of course, that are embodied in the  
17 statutes of conviction, the guidelines themselves, any  
18 departures, either upwardly or downwardly, that might be  
19 appropriate under all the circumstances here, and any 3553(a)  
20 factors that are relevant in this particular case.

21           Because I do have to consider all of these other  
22 things besides just the advisory guideline range, I will give  
23 the parties an opportunity to address the Court, keeping in  
24 mind that I have read all of your sentencing memoranda, and  
25 some of the points have been argued repeatedly. So I am not

1 exactly too inclined to hear the same argument, the same  
2 arguments again. To the extent that any of my rulings on the  
3 objections might change your argument, I am certainly happy to  
4 hear that.

5 And then, Mr. Sampson, I know that you wrote a  
6 letter to the Court, and it is included in the sentencing  
7 memorandum that was provided by your counsel, among other  
8 documents. Nonetheless, you still have a right to make a  
9 statement to the Court before I impose sentence. And if you  
10 wish to make a statement, of course, I will be happy to give  
11 you the opportunity to make such a statement. So it is not  
12 until we have actually gone through all of that that I will  
13 impose sentence.

14 Mr. Sampson, do you understand that process?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Thank you.

17 All right. So what I have received is quite a lot.  
18 We start with the pre-sentence report and sentencing  
19 recommendation that was disclosed by probation on March 18 of  
20 2016. There are defendant's objections to the pre-sentence  
21 report, dated April 1 of 2016. There were certain exhibits  
22 that were attached, which include cases that were cited as  
23 well as certain transcript excerpts from the trial of this  
24 case.

25 There's the government's objections to the

1 pre-sentence report, also dated April 1 of 2016. There was a  
2 letter on behalf of -- a reference letter that was submitted  
3 on behalf of Mr. Sampson from a Mr. William S. Wilkins, a  
4 director of economic development, dated March 30 of 2016,  
5 which was docketed, and I believe that also was included along  
6 with the exhibits of letters that were attached to the  
7 defendant's sentencing memorandum.

8 MR. COLANGELO-BRYAN: Slightly revised version, just  
9 to clarify.

10 THE COURT: It was substantially the same, and it  
11 was on the same letterhead, as I recall. May have been a  
12 little bit longer than what was included in the sentencing  
13 memorandum.

14 There is the government's response to the  
15 defendant's objections by letter dated April 13 of 2016.  
16 There is defendant's letter of April 13, and exhibits in  
17 response to the government's objections to the pre-sentence  
18 report.

19 There was another reference letter which was  
20 submitted directly to the court, dated April 10 of 2016, and I  
21 had a hard time making out the letter, but I think that letter  
22 may have also been incorporated in the sentencing memoranda by  
23 Diane Sult.

24 MR. COLANGELO-BRYAN: Yes, Your Honor.

25 THE COURT: S-u-l-t.

1           There is the addendum to the pre-sentence report  
2 submitted by probation, dated April 26 of 2016. There is a  
3 second addendum to the pre-sentence report, which corrects an  
4 error that was made in the sentence -- the revised sentence  
5 guideline range, or the revised calculation of the guideline  
6 range, based on the objections made by the parties.

7           I note that even though the guideline range is  
8 different in the second addendum to the pre-sentence report  
9 dated May 5 of 2016, Ms. Fiorillo, there was no revised  
10 sentence recommendation. I don't know if that -- I didn't  
11 receive a revised sentence recommendation. I don't know if  
12 one had been prepared, or whether the government was adhering  
13 to its original sentence recommendation.

14           THE PROBATION OFFICER: Your Honor, I apologize.  
15 There was a revised sentencing memorandum. I have a copy. I  
16 will bring it up.

17           THE COURT: Did everyone get a copy of the revised  
18 sentencing recommendation?

19           MR. COLANGELO-BRYAN: The parties received it --

20           MR. AKERMAN: Yes. We received it.

21           MR. COLANGELO-BRYAN: -- via e-mail.

22           THE COURT: This is why I do this. It happens  
23 sometimes. It is not anybody's fault, especially when there's  
24 a lot of documents.

25           (Said document tendered to the Court.)

1 THE COURT: Thank you, Ms. Fiorillo.

2 THE PROBATION OFFICER: You're welcome, Judge.

3 THE COURT: There was a letter of reference, again,  
4 sent directly to the court from a Mr. Rock Hermon Hackshaw. I  
5 believe it was undated, but the court received it on May 9.  
6 Sorry. It is dated April 30 of 2016.

7 There's defendant's sentencing memorandum, which  
8 contains a number of exhibits. As I referenced earlier, there  
9 are quite a few letters from a variety of persons, including a  
10 letter from the defendant, a letter from family members,  
11 letters from community persons and ministers, and various  
12 assortment of constituents and nonconstituents.

13 There is the defendant's declaration concerning  
14 attempts to make a partial deposit of surplus of funds in  
15 connection with one of the referee appointments that he had  
16 received, that Mr. Sampson had received.

17 There's some transcript excerpts that are also  
18 attached. And as I mentioned, Mr. Sampson's letter.

19 There's the government sentencing memorandum May 12  
20 of 2016. That also has exhibits relating to some items that  
21 were referred to in the body. A campaign brochure, and a  
22 letter from the state board, division of election, law  
23 enforcement state board of elections, in connection with that  
24 campaign brochure.

25 The Court received another letter of reference



1 directly from a Margaret Johnson, and that letter was dated  
2 May 19 of 2016.

3 There is a reply sentencing memorandum by defendant,  
4 which was filed on June 2 of 2016. That also has exhibits,  
5 specifically a sentencing transcript on the sentencing in the  
6 Southern District of New York of Senator Dean Skelos.

7 There is a pretrial supervision status report,  
8 indicating -- dated September 15 of 2016, indicating that the  
9 defendant had been compliant with his release conditions,  
10 reported as required, otherwise complied with all the  
11 conditions, had been cooperative, exhibited a pleasant  
12 demeanor when interfacing with the officer and during all his  
13 contact and telephone conversations.

14 There is a letter from the government with various  
15 exhibits, dated December 5, 2016, relating to an appearance by  
16 the defendant in the family court, as an attorney after he had  
17 been suspended from the practice of law on March 14. The  
18 appearance was on March 22 of 2016 in the family court. The  
19 suspension was on March 14 of 2016 by the First Department.

20 By e-mail sent to my deputy on January 11 of 2017,  
21 the parties may not have this, but it is just a confirmation  
22 that probation -- that pretrial services had no additional  
23 information to submit in connection with the status report.

24 And there is a letter from the defendant responding  
25 to the government's December 5 letter. The defendant's letter

1 is dated December 23, 2016, discussing the family court  
2 appearance.

3 That's everything that I have received as relevant  
4 to sentencing. Is that everything that I should have from the  
5 government?

6 MR. TUCHMANN: Yes, Your Honor.

7 THE COURT: From probation?

8 THE PROBATION OFFICER: Yes, Judge.

9 THE COURT: And how about from defense?

10 MR. COLANGELO-BRYAN: Your Honor, I would just note  
11 that we submitted a letter on July 5, 2016, regarding the  
12 Supreme Court's decision in *McDonnell*. Part of the letter  
13 pointed out that there were some sentencing issues that could  
14 relate to that decision.

15 THE COURT: And I gave the parties leeway to address  
16 that --

17 MR. COLANGELO-BRYAN: Right.

18 THE COURT: -- but you didn't submit anything  
19 addressing that.

20 MR. COLANGELO-BRYAN: I'm sorry, we understood the  
21 order to mean that we should address those issues at  
22 sentencing here today.

23 THE COURT: If you did not address -- if you want to  
24 raise an argument that you did not address in your sentencing  
25 memoranda, then you can do that orally.

1 MR. AKERMAN: Yes, Your Honor.

2 MR. COLANGELO-BRYAN: Yes.

3 THE COURT: That was the *McDonnell* decision, and I  
4 think that if I recall --

5 MR. COLANGELO-BRYAN: There was an opposition from  
6 the government.

7 THE COURT: There was --

8 MR. COLANGELO-BRYAN: Partial opposition.

9 THE COURT: There was an opposition from the  
10 government, and I entered an electronic order on September 19  
11 of 2016, basically, as the court stated there, the Court found  
12 it unnecessary to issue any opinions stating the reasons why  
13 it agreed with the government and its opposition letter with  
14 respect to the defendant's request. The government's  
15 opposition letter was dated July 8 of 2016, because the  
16 defendant was neither charged with nor convicted of any  
17 bribery offense.

18 MR. COLANGELO-BRYAN: Your Honor, if we can also  
19 note that the revised sentencing recommendation, which was  
20 just handed to the Court, does, in fact, contain a different  
21 recommendation as to the sentence. The revised  
22 recommendation --

23 THE COURT: So to the extent there is a revised  
24 recommendation, which represents I believe the lower end of  
25 the new guideline calculation.

1 MR. COLANGELO-BRYAN: Correct. Recommendation was  
2 41 --

3 THE COURT: Which is consistent with the  
4 recommendation that -- the first recommendation that probation  
5 made, which was also on the low end of the guideline range, as  
6 initially calculated by probation.

7 MR. COLANGELO-BRYAN: Right. Just a four month  
8 difference between the two.

9 THE COURT: Correct. So, obviously -- well, not  
10 obviously, but to the extent that the parties want to address  
11 probation's recommendation, certainly you can address that.

12 But do I have everything that the defense thinks I  
13 should have?

14 MR. COLANGELO-BRYAN: Yes, Your Honor.

15 THE COURT: Okay. So, Mr. Sampson --

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: -- did you have an opportunity to review  
18 all these documents that I just listed?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Did you review them with your attorneys?

21 THE DEFENDANT: Yes, I did.

22 THE COURT: Are you familiar with the objections  
23 that were raised on your behalf by your attorneys?

24 THE DEFENDANT: Yes, I am, Your Honor.

25 THE COURT: And other than the objections that were

1 raised by your attorneys to the pre-sentence report, is there  
2 anything else that you think still needs correcting, or is in  
3 error, anything about family history or anything like that?

4 THE DEFENDANT: I think everything is good,  
5 Your Honor.

6 THE COURT: Okay. All right. Thank you.

7 So now going to the objections to the pre-sentence  
8 report, there were -- I am not going to address those  
9 objections where essentially the parties agreed, and probation  
10 entered corrections accordingly.

11 So we'll start with the first addendum to the  
12 pre-sentence report, and then address the second addendum.

13 As the government noted, just for sake of clarity,  
14 while there was a superseding indictment that was used for  
15 ease of use, if you will, during the trial, which was a sixth  
16 superseding indictment, the charges that the defendant  
17 actually was convicted of actually were related to the fifth  
18 superseding indictment. So all changes were made by probation  
19 to reflect that change throughout and to make that consistent.

20 In connection with paragraph 15, I think that  
21 probation has addressed that appropriately. With respect to  
22 paragraph 18, probation has made a grammatical change. With  
23 respect to paragraph 18, and in connection with Hansraj,  
24 H-a-n-s-r-a-j, Hansraj's affidavit that was notarized by the  
25 defendant, the defendant requests that the statement that

1 Sampson learned that Ahmad had submitted documents to the  
2 agency be deleted, the Court agrees that there was enough  
3 circumstantial evidence that the defendant knew or at the very  
4 least was reckless in not knowing that the statements that  
5 were contained in the affidavit were false. And while there  
6 was a difference in the testimony between Hansraj and Ahmad as  
7 to whether or not Hansraj signed the affidavit in Sampson's  
8 presence, those facts are included in the amendment. So the  
9 Court agrees that there should not be any redaction of that  
10 sentence.

11 With respect to paragraph 20, defense counsel  
12 objected to language indicating that the defendant attempted  
13 to tamper with witnesses. The government provided -- the  
14 government responded and opposed. Defense counsel -- excuse  
15 me. Probation deferred to the Court as to whether or not the  
16 language in paragraph 20 should be revised. And the Court  
17 finds that probation should revise the language to incorporate  
18 the language that is in the government's letter dated April  
19 13, in relation to paragraph 20.

20 And the same with respect to paragraphs 26 and 29,  
21 defense counsel objects to language that Sampson attempted to  
22 arrange for Ahmad's coconspirators to be represented by  
23 compromised counsel, who would betray attorney-client  
24 confidences in order to convey essential information to him.  
25 I think probation and the government seem to be using the term

1 "compromised counsel" because, in essence, the defendant was  
2 the one who obtained these attorneys for Ahmad's codefendants,  
3 with the intention of being able to consult with them about  
4 their cases and report back to Ahmad, in which case these  
5 counsel were not independent counsel. And, in fact, with  
6 respect to one of them, the defendant spoke with Ahmad about  
7 how Ahmad could pay for that attorney, which was clearly a  
8 conflict and inappropriate. The language should be amended to  
9 reflect the language that's contained on page 3 of the  
10 government's April 13 opposition letter.

11 With respect to paragraph 34, it should be amended  
12 to insert the language that's proposed by defense counsel in  
13 counsel's opposition -- in counsel's objection. And the  
14 government consents to that.

15 With respect to paragraphs 36 and 37, defense  
16 counsel, as probation put it, clarifies that it was Ahmad  
17 acting on behalf of the government, who first suggested the  
18 idea of not producing the document to the government, a fact  
19 that likely was of significance in Sampson's being acquitted  
20 of all counts involving this episode. That's speculation and  
21 is not appropriate to include. The government's description  
22 in its opposition, which is on pages -- on the bottom of page  
23 3 and the top of page 4 of their April 13 letter, is more  
24 accurate, and the pre-sentence report should be amended to  
25 include that language. It is consistent with the evidence

1 adduced at the trial.

2           With respect to paragraph 88, this relates to the  
3 defendant's attempts on two occasions to provide the -- it  
4 should clarify the Brooklyn Supreme Court or the Kings County  
5 Supreme Court as a partial payment in relation to the 8th  
6 Avenue property foreclosure matter. The government had  
7 countered that the defendant should provide a declaration, the  
8 defense had offered a declaration; however, no declaration was  
9 offered prior to the addenda being prepared and was only  
10 offered up in connection with the sentencing memoranda. So  
11 the declaration that's part of the sentencing memoranda can be  
12 used to supplement that paragraph because without that  
13 declaration, it is just an unsworn statement.

14           Okay. The offense level computation, both parties  
15 disagree with probation's calculation. The government thinks  
16 it is too low, the defense thinks it is too high, not  
17 surprisingly. The Court agrees with the analysis of probation  
18 with respect to Count 4, which is the obstruction of justice  
19 count. The Court agrees with probation that in connection  
20 with the application of Guideline 2X3.1, as it is set forth in  
21 the addendum, would apply, and that means that, ultimately, we  
22 look at the base offense level for the underlying offense,  
23 which is mortgage fraud, which provides not only the base  
24 offense level, plus any applicable specific offense  
25 characteristics that were known or reasonably should have been



1 known by the defendant.

2           The Court agrees with both probation and the  
3 government that the defendant was aware that Ahmad was  
4 involved in the mortgage fraud. Ahmad was clearly very  
5 successful. He treated the defendant and other individuals to  
6 various cruises and trips and vacations, and various other  
7 kinds of entertainment. The defendant went to Ahmad to ask  
8 him for a loan of almost \$200,000. Clearly, he knew that  
9 Ahmad would be capable of providing that amount of cash on the  
10 spot, right away.

11           Moreover, the defendant, having himself been  
12 involved as a referee in foreclosure actions, and having  
13 himself engaged in real estate transactions as an attorney,  
14 was very much aware of the money that could be made from these  
15 transactions, and defendant's argument that defendant couldn't  
16 know that Ahmad was using straw buyers, just really flies in  
17 the face of common sense based on the evidence that was  
18 adduced at trial and the inferences that could be drawn from  
19 it, because a lot of the discussion that's cited by the  
20 defense to counter it was, in essence, the story that Sampson  
21 was concocting with Ahmad as a cover to counter the indictment  
22 for the mortgage fraud. And what facts Ahmad did give him  
23 clearly shows that straw buyers were being used and not one,  
24 but multiple.

25           So the 16 point enhancement for the \$3 million loss

1 for the underlying mortgage fraud applies and gets added to  
2 the base offense level under 2B1.1, which is 7. So that's  
3 a -- you wind up with an aggregate base offense level of 23.

4 The Court agrees with defense counsel and probation  
5 that the role enhancements that the government seeks to add to  
6 that calculation is not appropriate because those are not  
7 specific characteristics of the fraud itself. They are under  
8 a different guideline, and so they are not applicable.

9 The defense objects to the -- the only other  
10 objection with respect to any enhancement with respect to the  
11 obstruction of justice count is the application of the abuse  
12 of a public trust in a manner that significantly facilitated  
13 the commission or concealment of the offense. And the defense  
14 relies primarily on the defendant's status as a senator. But  
15 he wasn't just a senator, he was an attorney. And a lot of  
16 what he did actually involved his status as an attorney. And  
17 it seems to me that the status as an attorney is what's really  
18 at the core of the obstruction of justice.

19 As I said, as a backdrop, he was a referee appointed  
20 by Brooklyn Supreme Court justices to oversee foreclosure  
21 sales of various properties in Kings County, and he had an  
22 obligation pursuant to those appointment orders to remit any  
23 surpluses after all of the creditors had been paid, after all  
24 the taxes and liens had been paid, to remit any surpluses to  
25 the county clerk of Kings County. And that wasn't done.

1 Instead, he embezzled from the escrow funds containing these  
2 surpluses, and it was his attempt to cover up this  
3 embezzlement by obtaining the loan from Ahmad that sort of set  
4 the wheels in motion in connection with his obstruction of  
5 justice in connection with the mortgage fraud case against  
6 Ahmad.

7 He fully understood, having done criminal cases  
8 himself, how criminal cases developed, the incentive for  
9 people to become cooperators, what attorneys could do and what  
10 attorneys couldn't do, when witnesses would be identified,  
11 when they wouldn't be identified. He used his skill and  
12 knowledge and relationships developed as an attorney in  
13 criminal cases to hire the attorneys for Ahmad's codefendants  
14 so that he could find out directly from them what was  
15 happening in those cases so as to prevent them from  
16 cooperating, and, also, to try to discourage Ahmad from  
17 cooperating, the fear being that if Ahmad cooperated, Ahmad  
18 would give up the information about the loan and ultimately  
19 lead to the disclosure of the embezzlement. That's why I  
20 started with the embezzlement.

21 He also used his life long relationship and  
22 friendship with Noel, an administrative employee of the US  
23 Attorney's office of this district, to induce him to get  
24 confidential information, which he knew Noel would have access  
25 to. And he knew the importance of that access by virtue of

1 being an attorney and understanding that this is information  
2 that he would not be able to obtain until such time as the  
3 government would turn over 3500 material, and even then he  
4 might not know the full name of all cooperators unless they  
5 were going to testify at trial. And it was also based on his  
6 knowledge gleaned as an attorney about US Attorney's offices  
7 operations.

8           The same was true with the recruitment of the  
9 private investigator, the retired FBI agent. He used his  
10 knowledge as an attorney as to how that would operate and what  
11 that investigator could do or not do in terms of getting  
12 information. And it seems a bit disingenuous to believe that  
13 his role as a senator had no role to play with any of this.  
14 Because Ahmad certainly was inspired to give the loan, not  
15 just out of friendship, but also as a result of favors he  
16 thought that he could get. And, in part, their relationship  
17 was based on favors that Sampson would do for him. And as I  
18 said previously, Ahmad also would treat him to trips and so  
19 on.

20           To think that a person might not necessarily be  
21 inclined to be more forthcoming because a person has a  
22 position of high authority I think is to ignore human behavior  
23 and defies common sense. So the abuse of trust certainly  
24 applies with respect to the obstruction of justice  
25 calculation.

1           Then, of course, the rest of it was corrected in the  
2 second addendum in terms of the multiple counts with respect  
3 to the false statement counts and so on, and there was no  
4 increase in an offense level.

5           The government's -- the Court joins probation and  
6 defense counsel in rejecting the government's arguments that  
7 Counts 7 and 9 should not be grouped for all the reasons that  
8 were set forth in those papers. So the Court finds that the  
9 guideline range as reflected in the second addendum to the  
10 pre-sentence report is what applies here. And listen  
11 carefully because I want to make sure that I state it  
12 correctly on the record.

13           It is based on a total offense level of 21.  
14 Defendant has a criminal history category of I, and that  
15 provides a sentence guideline range of 37 to 46 months. Given  
16 the Court's rulings, have I stated that range correctly?

17           MR. TUCHMANN: Yes, Your Honor.

18           THE COURT: Ms. Fiorillo, is that correct?

19           THE PROBATION OFFICER: Yes, Your Honor.

20           THE COURT: And who's taking the lead?

21           Mr. Colangelo-Bryan?

22           MR. COLANGELO-BRYAN: Yes, Your Honor. Pleased to  
23 say that.

24           THE COURT: All right. There was also the  
25 incorporation of other criminal conduct that the government

1 sought to include. Another way of stating it would be other  
2 bad acts, if you will, which probation has incorporated by way  
3 of the addendum, and the Court agrees that it should be  
4 incorporated. Of note, the Court can consider pretty much any  
5 kind of information in connection with sentencing, and the  
6 case law is clear, it is black letter. Moreover, the Court  
7 can consider acquitted conduct. The Court can consider  
8 dismissed conduct, and very often in pre-sentence reports we  
9 see information about perhaps situations where defendants have  
10 been arrested, but no disposition is known, for a variety of  
11 reasons, records get destroyed, perhaps it is too old, perhaps  
12 the person was very young, they are sealed, they are not  
13 accessible, or the charges are dismissed, sometimes for  
14 reasons known, sometimes for reasons not known.

15 But, importantly, the Court can consider acquitted  
16 conduct, the Court can consider other similar types of conduct  
17 before other agencies. And the fact that it was not  
18 necessarily conduct that evidence was presented about during  
19 the course of the trial does not mean that it cannot be  
20 considered at the time of sentencing.

21 So the defendant's objections in that regard are  
22 overruled.

23 MR. COLANGELO-BRYAN: Your Honor, can I note one  
24 thing in that regard?

25 THE COURT: Yes.

1 MR. COLANGELO-BRYAN: That the government in its  
2 May 12, 2016 letter to the Court, on page 19, footnote 11,  
3 indicates that it is no longer attempting to rely on one of  
4 the episodes that had been raised with probation. So,  
5 accordingly, we would submit that that episode should not be  
6 considered even under the Court's ruling.

7 THE COURT: Okay. That's -- I agree. That's on  
8 page 19 of the government's May 12 submission, and that  
9 relates to the incident involving campaign finances. So that  
10 should be omitted.

11 And I would think, Ms. Fiorillo, given the breadth  
12 of the revisions that the Court is directing to be done, that  
13 we get a revised -- one coherent revised pre-sentence report  
14 because I think otherwise it is a little disjointed.

15 THE PROBATION OFFICER: Yes, Your Honor.

16 THE COURT: Okay. Thank you.

17 Thank you, Mr. Colangelo-Bryan.

18 I think that that takes care of all the objections  
19 that were raised. You may not agree with me, but I think I  
20 have addressed them, in any event. Am I correct about that?

21 MR. TUCHMANN: Yes, Your Honor.

22 THE COURT: From the defense?

23 MR. COLANGELO-BRYAN: Yes, Your Honor.

24 THE COURT: Okay. All right. So we are at that  
25 point where, as I said, I will give the parties an opportunity

1 to address the Court in connection with the factors that the  
2 court should consider with respect to sentencing.

3 I will start with --

4 MR. AKERMAN: Your Honor, before we go there, could  
5 we just take a brief break for the facility, and also just to  
6 reorganize based on Your Honor's rulings?

7 THE COURT: Okay. We will take ten minutes.

8 MR. AKERMAN: That would be terrific. Thank you.

9 THE COURT: Sure.

10 (Recess taken from 11:10 a.m. to 11:21 a.m.)

11 THE COURT: Welcome back. We are resuming again.

12 *United States v. John Sampson*, 13-CR-269, same appearances as  
13 earlier.

14 And we were at the point where I was going to turn  
15 the floor over to counsel to address any factors they think I  
16 should take into consideration with respect to sentencing. I  
17 will start with the government, and then I will give the  
18 defense an opportunity to respond.

19 Who wishes to be heard for the government?

20 MR. SOLOMON: Your Honor, with the Court's  
21 indulgence, I have a couple of opening comments to address  
22 some arguments raised in the defense papers, and then  
23 Mr. Tuchmann will address the 3553 factors.

24 THE COURT: Okay.

25 MR. SOLOMON: So, Your Honor, one of the issues



1 raised in the defense sentencing memorandum was the  
2 defendant's public service to New York state. And I think it  
3 is important to note that we are not here today to discuss the  
4 defendant's acts as a public servant. He sought out privilege  
5 that the public conferred on him. He wanted the power to  
6 serve the public. He wanted the power to do good. But he  
7 decided to use that power for his own benefit, and that's why  
8 we are here today.

9 And it doesn't matter that the defendant served the  
10 public some of the time when he was in office. He should have  
11 been serving the public all of the time. He shouldn't get  
12 special credit for sentencing purposes, just because he was  
13 doing his job. We are here because he was primarily concerned  
14 about serving himself. Now, the John Sampson that was  
15 depicted through witness testimony, and also through taped  
16 conversations involving the defendant, is of a person  
17 diametrically different from the person portrayed in the  
18 defense sentencing submission.

19 Your Honor, you heard the defendant on tapes. For a  
20 person who sat as the chair of the ethics committee in New  
21 York state, his behavior was shocking. He was manipulative,  
22 vulgar, selfish, and greedy. In fact, he talked about using  
23 his office to make money. That is the person who deserves  
24 punishment, and that's the person we are discussing today.

25 Now, speaking for the government, we were struck by

1 the defendant's statement to the Court, his written apology,  
2 and I think we can all agree that we would be in an entirely  
3 different position today if he had that apologetic attitude  
4 when we first started our investigation. Instead of taking  
5 responsibility for his errors, as he is now, he dragged down  
6 his long-time friend Sam Noel, and he was completely ready to  
7 take down other employees from our office with him, and anyone  
8 else who got in his way. So instead of admitting to his  
9 misconduct, he repeatedly obstructed justice and lied to FBI  
10 agents when asked about his misconduct.

11 The final point I would like to address in the  
12 defense submission, before I turn it over to Mr. Tuchmann, is  
13 I think it is absolutely preposterous to suggest that the  
14 government has conceded that the Dean Skelos case is a more  
15 serious case than this case. The team at this table  
16 represents the government in the prosecution of John Sampson.  
17 Your Honor, not Judge Wood, is the judge presiding over this  
18 case.

19 The Skelos team in its sentencing submission sought  
20 a sentence of more than 150 months. And I think if you look  
21 carefully at the government's submission in that case, they in  
22 no way suggested that the Dean Skelos case is more serious  
23 than this case. They remarked, and I think we would all  
24 agree, that John Sampson was charged with different kinds of  
25 crimes than Dean Skelos was. The defendant in this case has

1 been convicted on obstruction of justice and false statement  
2 counts, not with bribery counts.

3 MR. TUCHMANN: Your Honor, I just want to turn,  
4 then, to 3553(a) factors, particularly history and  
5 characteristics of the defendant, and focus on the bad conduct  
6 of all kinds that you heard and saw that the defendant engaged  
7 in through the evidence at the trial. I will start with that.  
8 And, you know, I won't belabor the point, Your Honor has  
9 mentioned some of these things during your discussion of the  
10 guidelines.

11 But just to start, the obstruction count of  
12 conviction related to a multi-faceted scheme to get  
13 information, nonpublic information, about cooperating  
14 witnesses with the intent that they could be tampered with.  
15 And perhaps the saddest aspect of this case is the defendant's  
16 abuse of his long-standing and close relationship with a good  
17 and decent man, Sam Noel, an employee of this office. He took  
18 advantage of that relationship, knowing that it was the wrong  
19 thing to do, knowing, as he said on the tape to Ahmad, that it  
20 was illegal, and putting his friend in jeopardy. Jeopardy of  
21 being convicted of a crime, as he was, and of losing the  
22 livelihood that he had here in this office, as he did.

23 He even played on that trust when he first broached  
24 the subject with Noel by saying that he, himself, was in  
25 trouble. It was that -- he, himself, Sampson, was in trouble.

1 It was that statement. Once Sam Noel heard that, there was no  
2 way that such a close friend would resist the defendant's  
3 request to do something wrong and something illegal, and,  
4 sadly, that's exactly what happened. And not only the  
5 defendant, but Sam Noel has had to suffer the consequences.

6 As Your Honor said, the defendant also got  
7 compromised counsel or tried to represent Noel in order to  
8 learn such nonpublic information and manipulate the legal  
9 process, again, knowing that it was wrong. As you saw on one  
10 of the tapes, when Ahmad first discussed paying one of those  
11 coconspirator's lawyers, the defendant said, "I did not hear  
12 you say that. You didn't say that." Because the defendant  
13 knew it was wrong. But within a few seconds, he was telling  
14 Ahmad, "Okay, pay in cash so there's no money trail." This is  
15 a defendant who knew exactly what was right and wrong, but did  
16 what was wrong anyway.

17 Again, even when he was told by the investigator  
18 Warren Flagg, that crossing certain lines would be witness  
19 tampering and wrong and you shouldn't do it, he later did the  
20 same thing by saying to Flagg things like -- saying to Ahmad  
21 about Flagg, "I have got to have somebody to do -- to do the  
22 dirty work." By saying to Ahmad when Ahmad was going to tell  
23 his legitimate attorney, Steve, about what they planned to do,  
24 he says, the defendant says to Ahmad, "Steve don't have to  
25 know everything that he does," meaning Flagg.

1           He said, the defendant said, "You always got to have  
2 somebody who always plays, plays between the lines, but you  
3 also have to have somebody who knows the gray area." The  
4 defendant knew exactly what was right and what was wrong, and  
5 he wanted to have someone do the thing that was wrong, not  
6 just what was right.

7           If we look at the conduct at Vetro restaurant on  
8 February 22, 2012, you have the defendant committing a crime  
9 on tape. And we understand this is acquitted conduct, but it  
10 is, the government's submits, clearly conduct which was proved  
11 by a preponderance of the evidence for the Court to find. And  
12 Ahmad said to him, "Obviously, I've got to turn this over,"  
13 meaning this check register page, which was proof of the  
14 nearly \$200,000 loan he had given the defendant that the  
15 defendant desperately for some many reasons wanted to hide.  
16 Ahmad gave the defendant the choice, "What should I do?" Very  
17 quickly the defendant said, in classic John Sampson double  
18 talk, "I don't want you to lie, just tell them you don't have  
19 it."

20           Well, that would obviously be a lie. It would be  
21 wrong, the defendant knew it. He did it anyway. And, again,  
22 he tried to cover up his tracks after repeatedly telling Ahmad  
23 during this meeting not to give the document to the  
24 government, to lie to the government about the \$188,500, to  
25 preposterously say that it was for legal fees. Later on he

1 knows -- he believes, correctly, that his phone is being  
2 tapped. He calls up Ahmad and says, "Hey. That document,  
3 keep a copy of it." When Ahmad says to him, "You took my only  
4 copy, how could I make a copy of it?" The defendant doesn't  
5 acknowledge it. He knows what he's doing is wrong, and he's  
6 trying to cover his tracks.

7 Over the course of the trial, we saw, it is  
8 essentially undisputed that the defendant abused his position  
9 as an attorney, as an appointee of the Supreme Court, by  
10 embezzling hundreds of thousands of dollars from escrow  
11 accounts, including to pay for his campaign for Kings County  
12 District Attorney. Shocking.

13 We saw him repeatedly lie on financial disclosure  
14 forms that he was required under penalty of law to fill out  
15 and submit, omitting the nearly \$200,000 that he got from  
16 Ahmad.

17 We saw that he lied to the State Liquor Authority  
18 through the submission of a liquor license application that  
19 did not include him because he wanted to keep that secret from  
20 the public. I'll talk a little bit more about why.

21 We saw obstructing state investigations of Ahmad's  
22 businesses, allowing -- contributing to the knowing submission  
23 of false affidavits as part of that. We saw him doing  
24 political favors for Ahmad. After he got the nearly \$200,000  
25 loan, which was never repaid, never documented, no interest,

1 we saw him introduce bills that would benefit Ahmad and his  
2 business. Again, without disclosing the money he had received  
3 from Ahmad. We saw him call up and meet with the head of the  
4 entire New York state banking department. Think about that.  
5 To pressure, to pressure the banking department to alter and  
6 ease up as part of its investigation of Ahmad's business, to  
7 give him more time to pay.

8           And while it was not introduced at trial, we see the  
9 other things that were submitted by the government, which the  
10 Court has accepted. Frankly, the testimony under oath from  
11 the state inspector general about the Aqueduct bidding  
12 process, it is appalling. When cornered, saying that the New  
13 York State Senate had no confidential information, so it was  
14 okay for him to simply provide bidding information to one of  
15 the parties so that that party could have an advantage, again,  
16 astounding.

17           And even after he was convicted in this case, again,  
18 before he's even sentenced, he appears in court, family court,  
19 while under temporary suspension by the New York state bar.  
20 No, it is all there in the appellate division opinion. It  
21 just shows an incredible lack of the awareness that he should  
22 have about what he's done, what it means, and how to do right  
23 rather than wrong when you know exactly what right is and what  
24 wrong is.

25           The last thing I am going to talk about is the

1 conduct involving the liquor store and the use of an employee,  
2 a senate employee. As we know, the defendant had an ownership  
3 interest in his liquor store. He didn't tell anyone about it,  
4 no one on his staff. Tried to keep it hidden, wanted to keep  
5 it hidden, and he actually tried to use his staff to benefit  
6 that liquor store that he owned. Classic conflict of  
7 interest, a violation of the public officer's law. He says to  
8 his staffer, and this is in Transcript Exhibit 605-T, line 23.  
9 He says, "His partner needs some help, he has to pay a  
10 liquor -- he has to pay the sales tax people. So he just  
11 wants to see if you can negotiate the amount down a little  
12 bit."

13 He's telling his staffer to contact the state  
14 department of taxation, to use his own office, to try and  
15 reduce the tax liability of a business that he has an interest  
16 in. That is wrong. He knows it is wrong, and he does it  
17 anyway.

18 Finally, you know, there was a -- again, we have  
19 seen, as Mr. Solomon addressed, there was a lot of discussion  
20 about the defendant's good work as a legislator, and we are  
21 not in a position to talk about specific bills, specific  
22 constituent service. I would say that there are a lot of ways  
23 to engage in public service. As a judge, as a prosecutor, as  
24 defense counsel, helping people exercise their Sixth Amendment  
25 rights in criminal cases. So many other ways. And running



1 for elected office is also an important way that we can serve  
2 the public, people can serve the public. And it is a risky  
3 endeavor in the sense that you could lose. There's no shame  
4 in running for office and not being successful. What is  
5 shameful is when you take your position, and you have the  
6 attitude that it is something that you can use to help  
7 yourself in a way that's more important than serving the  
8 public.

9 So I want to read from Exhibit 615-C, transcript of  
10 a call that was played. This was from January 3, 2012. And  
11 this is during a period when the defendant was the minority  
12 leader of the state Senate, his party was in the minority.  
13 And he wanted, quite naturally, to have his party become the  
14 majority party again. So he was talking to someone on the  
15 phone, and what he said was, "Yo" -- this is line 33 of that  
16 call. "Yo, once I get this majority back and do what I got to  
17 do, setting myself up and getting the fuck out, make some  
18 money, girl, let's try to make some money and live nice."

19 That's what the defendant thought of his public  
20 service. And as Mr. Solomon said, that's the defendant who  
21 should be sentenced today. Thank you.

22 THE COURT: Thank you.

23 And who's going to address on behalf of the  
24 defendant?

25 MR. AKERMAN: I will, Your Honor.

1 THE COURT: Thank you.

2 MR. AKERMAN: First of all, let me run through the  
3 various sentencing factors here. One of them is the  
4 collateral consequences to Mr. Sampson from all of this.  
5 There is no question here that these collateral consequences  
6 have been severe. He no longer serves as a state senator.  
7 He's been disbarred from the practice of law. He has lost his  
8 entire livelihood, and he's also suffered a tremendous  
9 reputational damage. With respect to the factor of general  
10 deterrence and disparity, certainly even a short term of  
11 imprisonment in addition to what has occurred here would  
12 afford adequate deterrence.

13 The government has argued that a sentence at the  
14 absolutely highest end of range is necessary to deter public  
15 officials, given recent corruption scandals. Mr. Sampson,  
16 however, was not convicted of corruption. However, since the  
17 government raises this issue, it is worth examining one of the  
18 most recent corruption cases, which did involved Dean Skelos,  
19 former New York state majority leader. Skelos was convicted  
20 on eight corruption counts.

21 Now, it wasn't Judge Kimba Wood that was the one, as  
22 Mr. Solomon said, was the one that said it was the worst case  
23 of corruption, it was actually the government in the Skelos  
24 case that said it was the most serious public corruption crime  
25 committed in New York state in recent memory that was in its

1 sentencing memo to Judge Wood. They mentioned, first, the  
2 Sampson case about the obstruction of justice lying to federal  
3 agents. They then mentioned the --

4 THE COURT: The crimes of conviction were different  
5 in those two cases.

6 MR. AKERMAN: They were different, Your Honor. But,  
7 essentially, the government took the position that the Skelos  
8 case was much worse. It was worse than the Sampson case. And  
9 Judge Wood agreed with that.

10 THE COURT: And that's a US Attorney's office in  
11 another district, speaking to a judge in another district, and  
12 none of that has anything other than perhaps some  
13 persuasiveness. It is not binding on this Court.

14 MR. AKERMAN: I agree, but --

15 THE COURT: And it is apples and oranges. The  
16 crimes of conviction were different.

17 MR. AKERMAN: They were different, and I think the  
18 main point here is.

19 THE COURT: And perhaps in some ways more brazen in  
20 the way that it was conducted by Mr. Skelos. Maybe a little  
21 more cheeky, to a certain degree.

22 MR. AKERMAN: I guess just two points --

23 THE COURT: But the guidelines were different, the  
24 ranges were different. And so, you know, if you want to talk  
25 sentencing disparities, when the guidelines -- when the

1 3553(a) factors were passed in Title 18 of the United States  
2 code in that statute, initially, the idea was that you look at  
3 national sentencing disparities of similarly situated  
4 defendants. So you have to look at similar crimes, similar  
5 guideline ranges, similar backgrounds, and so on.

6           Ultimately, especially in the last maybe five or six  
7 years, the law at least in this circuit has evolved somewhat  
8 from that to allow the district courts to look at sentencing  
9 disparities as they relate to codefendants recognizing that  
10 sometimes within a case where there are multiple defendants,  
11 especially where there are a lot of multiple defendants, you  
12 need to take into account relative roles, and who was  
13 similarly situated to whom, in order to figure out whether  
14 similar sentences should be meted out to some or all of the  
15 defendants. But we are not, in my view, talking about two  
16 defendants who are necessarily similarly situated, other than  
17 they are both senators. The crimes of conviction are  
18 different, the guidelines are different, what they did is  
19 different.

20           MR. AKERMAN: But one factor that Judge Wood did  
21 find was that the most common sentence for convicted  
22 legislators in New York is approximately 70 percent of the low  
23 end of the guideline range. That's certainly a factor that  
24 should be considered by this Court.

25           There were similar concerns in a similar case, just

1 to give another example in terms of avoiding any disparity,  
2 the *US v. Joseph Dwyer* case. The defendant was a former  
3 police officer, turned private investigator. He paid a New  
4 York City police sergeant to get confidential witness  
5 information from an FBI database, eleven federal prosecutions.  
6 The defendant obtained the names and locations of witnesses to  
7 violent crimes before the time that such information would be  
8 disclosed as 3500 material and used that information to  
9 interview at least two witnesses to a homicide.

10 The defendant in that case pled guilty, was  
11 sentenced to make a payment, was on probation. The officer  
12 who gave information to Dwyer was also given probation. Here,  
13 Mr. Sampson sought information --

14 THE COURT: And they pled guilty.

15 MR. AKERMAN: Correct.

16 Mr. Sampson here, though, sought information about  
17 witnesses in one matter rather than eleven, and the underlying  
18 crime here did not involve violence like those in Dwyer, and  
19 Mr. Sampson did not, as it was in the Dwyer case, attempt to  
20 contact or contact any of the witnesses.

21 With respect to specific deterrence, the shame and  
22 humiliation that --

23 THE COURT: But he sought to interfere with what is  
24 probably one of the most sacred rights that we have under our  
25 great constitution of this country, which is the right to

1 counsel, of those codefendants.

2 MR. AKERMAN: Clearly, the facts were different, but  
3 in terms of confidential information, and the fact that that  
4 case involved crimes of violence is a whole different  
5 situation. And we simply point it out in terms of the overall  
6 disparity, Your Honor, for consideration.

7 With respect to specific deterrence, obviously, the  
8 shame and humiliation Mr. Sampson feels will stay with him for  
9 life. The US Sentencing Commission study shows that  
10 defendants over 50, Mr. Sampson is 51, with a category I  
11 criminal history category have only 6.2 rate of recidivism.

12 THE COURT: But, again, you have to look at these  
13 studies on recidivism in -- you have to really look at how  
14 that data is collected and what that data means. There's a  
15 difference between a defendant who commits a crime -- it is  
16 one time, let's say, age 50, commits a crime once. What we  
17 have is an ongoing pattern of activity in his 40s. The time  
18 in which the Sentencing Commission says that people are not  
19 likely to commit offenses. The likelihood of them committing  
20 repeated offenses is lower.

21 MR. AKERMAN: I am only pointing that out as one  
22 factor here, Your Honor, as far as what the Sentencing  
23 Commission has said.

24 Again, just to briefly respond to the nature and  
25 circumstances of the offense here, again, Mr. Sampson never

1 attempted to approach any potential witnesses in the mortgage  
2 fraud case, even though he and Ahmad had figured out who those  
3 witnesses were without confidential information.

4           With respect to the Vetro restaurant that was  
5 mentioned by the government, the government says that Ahmad  
6 was the one who told Mr. Sampson that he shouldn't turn it  
7 over -- or that he should turn it over, and it was Ahmad who  
8 first suggested to Mr. Sampson not disclosing it, which is why  
9 the jury acquitted Mr. Sampson on that count, because of the  
10 entrapment defense.

11           With respect to the other alleged criminal conduct  
12 that we have here, let me just address the opinion in the  
13 *McDonnell* case very briefly. There is no evidence that the  
14 payment from Ahmad affected the assistance Mr. Sampson  
15 provided to Ahmad. Ahmad testified repeatedly at trial that  
16 Mr. Sampson always helped him, including prior to when the  
17 loan was made. There was no evidence that Mr. Sampson even  
18 hinted that he would cease helping Ahmad if Ahmad did not  
19 provide the loan.

20           There are a whole series of actions, I think some of  
21 which the government has referred to, and just to very  
22 briefly --

23           THE COURT: These are the same arguments that you  
24 made at least three or four times in your sentencing  
25 memorandum, and that doesn't include the number of times that

1 they were repeated in reply and in the objection letters. So,  
2 again, if there's something different from what was said in  
3 the papers, I am happy to hear it.

4 MR. AKERMAN: Certainly, as to all of these  
5 different acts that the government claimed at trial were  
6 bribery, there was nobody was -- pressure was not put on  
7 anybody, there was no evidence of a quid pro quo. The closest  
8 it came as to any of these acts was the idea that there would  
9 be legislation introduced on behalf of Mr. Ahmad. The bottom  
10 line is, Mr. Ahmad never asked for that legislation, he was  
11 surprised that -- Mr. Sampson's, one of his aides came up with  
12 that legislation. The fact that it was not asked for means  
13 that there couldn't have been any possible quid pro quo, and,  
14 again, that act is certainly not actionable as a criminal act  
15 under *McDonnell*.

16 THE COURT: *McDonnell* is inapposite here. I said  
17 that already. I have already ruled on that. That's the law  
18 of the case.

19 MR. AKERMAN: With respect to the government raising  
20 Mr. Sampson's unauthorized practice of law, we have submitted  
21 a declaration from Mr. Sampson explaining what happened there.  
22 This was a situation where somebody had been a prior client,  
23 asked him to help. The problem was, of course, he didn't tell  
24 the court that he had been convicted.

25 THE COURT: There were several problems there, and



1     apparently the First Department had a really serious problem  
2     because they summarily then barred him from the practice of  
3     law altogether because he was required under their initial  
4     ruling in March that he had to advise all of his clients in  
5     writing. In writing. Not pick up the phone and not say,  
6     "Hey, by the way, I have been suspended from the practice of  
7     law," but in writing inform all of his clients that he had  
8     been suspended from the practice of law. To start with. He  
9     only told that client over the phone that he had been  
10    suspended, so he violated that rule.

11           He didn't tell any of his adversaries nor did he  
12    advise the family court, as he was required to do by the First  
13    Department's ruling, that he had been suspended from the  
14    practice of law. Nor did he represent when he said, "Well, I  
15    will be withdrawing today." I read the transcript, and I read  
16    the decision from the First Department that was attached to  
17    the government's letter. He at no time said "I am withdrawing  
18    because I have been suspended from the practice of law, and I  
19    cannot represent this person." In fact, that should have been  
20    the first thing out of his mouth --

21           MR. AKERMAN: We are not disputing that.

22           THE COURT: -- in that court. And so the excuses  
23    that he raises in the declaration and that are raised in the  
24    letter attached to it, that he didn't get paid, is irrelevant,  
25    and, frankly, supports the government's position that the

1 defendant thinks that he is above the law.

2 MR. AKERMAN: It certainly doesn't support their  
3 position that he was making any money off of this because he  
4 certainly didn't --

5 THE COURT: It doesn't matter whether he was making  
6 any money off of it or not. He was practicing law without a  
7 license, and in direct contravention to an order of the court.  
8 I don't know how much more contemptuous of the law you can get  
9 than that, especially from somebody who has been a lawyer and  
10 who has been one of the highest ranking members of the Senate,  
11 and who, in fact, was chair of the Senate ethics committee.  
12 Lawyers are held to a higher standard. And I don't see how he  
13 can excuse his way around that conduct and knowing, knowing  
14 that he had a sentence pending in this case. Knowing he had a  
15 sentence pending in this case. He's not a stranger to  
16 criminal law. He's not a stranger to criminal practice. He's  
17 actually quite an intelligent person, by all accounts. His  
18 academic record shows it.

19 MR. AKERMAN: May I proceed, Your Honor?

20 THE COURT: Yes.

21 MR. AKERMAN: Yes. The other factor that  
22 Mr. Solomon discussed was Mr. Sampson's performance and public  
23 service in his capacity as state senator and asking the Court  
24 to ignore that basically for sentencing purposes. There is  
25 really, there's no case in this circuit that would certainly

1 support that whole idea. Moreover, in *US v. Serafini*, which  
2 the government cites to argue that Mr. Sampson should receive  
3 no credit for his good works, the Court affirmed a downward  
4 departure from state legislature based on community and  
5 charitable activities that went beyond the norm, in  
6 particular, helping people through his own time and money.

7 And we certainly would submit based on all the facts  
8 that we present to this Court, that Mr. Sampson's 18 years of  
9 representing economically disadvantaged communities have  
10 generated a huge body of good works, including good works that  
11 go beyond the norm, and so have his actions, independent,  
12 completely independent of his role as a state senator.

13 I think all of his various legislative achievements  
14 are pretty well outlined in our sentencing memo. We have  
15 provided all of those to Your Honor. But I think that all of  
16 these things show that Mr. Sampson was a legislator who took  
17 his job seriously, that he did do a number of things that were  
18 extremely important, a lot of these are mentioned in the  
19 letters that we've provided to the Court. And I think that  
20 one of the things I just would like to emphasize is that  
21 Mr. Sampson's work and his good works went far beyond that  
22 normally performed for constituents and as his role as state  
23 senator.

24 He assisted people from anywhere in New York state,  
25 not just those in the district. I know the government itself

1 argued at trial that it was outside the norm, and even  
2 suspicious for an elected official to help people outside his  
3 district. But that is exactly what Mr. Sampson did. His  
4 chief of staff, Michelle Edwin, wrote that constituents were  
5 not limited to Senate District 19. Anyone who is hurting, had  
6 a problem, lived in the district, used to live in the  
7 district, or related to him because of his committee  
8 assignments, called the office and received extensive and  
9 absolute help.

10 Ms. Edwin writes that when she reminded Mr. Sampson  
11 that some people seeking help were not formally constituents,  
12 Mr. Sampson responded that they were from New York state, and  
13 they were people, so they deserved our help.

14 Delroy Wright wrote that he received the greatest  
15 amount of assistance for community events he organized for  
16 Mr. Sampson, even though he was not formally a constituent of  
17 Mr. Sampson. He also writes that "people would approach me  
18 for advice on many issues. Very often I would refer these  
19 people to John, and they would come back to thank me for the  
20 referral."

21 Another individual I would really like to emphasize  
22 is someone who did not live in his district and whose name I  
23 won't use here due to the sensitivity of the subject matter,  
24 writes how her daughter, "J," was missing a left kidney and a  
25 substantial part of her colon at birth, among other anomalies.

1 Perhaps miraculously J survived, but by the time she was 6,  
2 she had become deaf. The mother sought assistance from  
3 various doctors, the New York state department of health and  
4 elected officials to arrange for medical treatment that would  
5 improve J's quality of life, but to no avail.

6 When J was 11, her mother brought her to  
7 Mr. Sampson. She writes that after she told Mr. Sampson about  
8 J's various conditions, Mr. Sampson said, quote, I am going to  
9 help you with your daughter, closed quote. Through  
10 Mr. Sampson's efforts, physicians took an interest in J's  
11 case, and within 18 months, she had received multiple  
12 surgeries. J spent five months hospitalized at Boston  
13 Children's Hospital, and Mr. Sampson helped raise money to pay  
14 fees associated with that stay, and also found a charity that  
15 helped the family make rent payments. The mother describes  
16 how Mr. Sampson developed a relationship with her and J,  
17 becoming like a godfather to this little girl, who is now 18,  
18 and as her mother describes, has a personality that would fill  
19 a room.

20 In our memo, we also described the help he gave to  
21 Blanche Peltonbusch, an elderly woman who had various  
22 problems, and helped her get action from the city.

23 And I think most significantly, I think that the  
24 information that we provided about Mr. Sampson's actions with  
25 respect to Hurricane Sandy are particularly telling about the

1 type of person that Mr. Sampson is. Danny Foote, a  
2 corrections officer, writes that during Hurricane Sandy, he  
3 and Mr. Sampson were, quote, waist deep in water assisting  
4 residents in the neighborhood, and that once the water began  
5 to recede, they went house to house checking on the neighbors.

6 Merlene Griffith, a senior citizen describes in a  
7 handwritten letter to Your Honor how during Sandy, she was  
8 alone, no light, no stove, in other words, nothing to eat.  
9 Her doorbell rang, and she opened the door to find  
10 Mr. Sampson. He was carrying food, a flashlight, and other  
11 items. She writes that Mr. Sampson returned on a daily basis  
12 to check in with her because she lived alone.

13 THE COURT: I read all of these letters. Every  
14 single one of them.

15 MR. AKERMAN: I'd also just like to emphasize that  
16 Mr. Sampson has also continued to help people despite his  
17 legal problems. And after he stopped serving as a senator, as  
18 several letters we submitted describe, he has continued to  
19 help out people in his community and has gone well beyond and  
20 above what you would expect from somebody in this  
21 circumstance.

22 I also want to address what the government said  
23 about Mr. Sampson, if he were somehow in the majority position  
24 he would be making money. What I think that statement said  
25 was that he would be getting out, which means getting out of

1 the government and then making money, which is nothing,  
2 nothing improper with respect to that. I just want to note  
3 that for the record, Your Honor.

4 With respect to the conclusion here, the guideline  
5 range, as I understand it, is 37 to 46 months. The probation  
6 has recommended 37 months, and it underscored -- well, I think  
7 it underscores how unreasonable the government's original  
8 request is, and it should -- the Court should look at the  
9 starting point from probation, which it has already ruled it  
10 will.

11 Mr. Sampson requests that the Court impose a  
12 sentence of 366 days, or a sentence of 18 months, half of  
13 which would be served in home detention. He also believes  
14 that an appropriate sentence here would include a substantial  
15 community service component, talking advantage of things that  
16 he does best. My Time Inc., which deals with special needs  
17 children, helps them secure appropriate resources, it is  
18 located in Canarsie. It is run by Lucina Clarke. And they  
19 would be more than willing to have Mr. Sampson be part of that  
20 and make that as part of his sentence.

21 Your Honor, I think that's pretty much what I have.  
22 All of this has been detailed quite extensively, as Your Honor  
23 has noted, in the papers that we submitted to the Court.

24 THE COURT: Thank you.

25 So, Mr. Sampson, we are at that point where if you

1 would like to make a statement, as I said earlier, I am happy  
2 to give you the opportunity to do that. And if you wish to do  
3 so, you can do so now. We just need to make sure, Counsel,  
4 that he's got a microphone so we can hear him. Thank you.

5 THE DEFENDANT: Thank you very much, Your Honor.

6 I am going to do something that my lawyer told me  
7 not to do, you know, to follow the script of what was prepared  
8 for me. But I feel this situation calls for me just talking  
9 from my heart and the way I feel.

10 You know, for five years, I have been living a  
11 nightmare. You know, during that period of time, I have seen  
12 my daughter graduate from high school, I buried my father, and  
13 now my daughter is graduating from Columbia in a couple of  
14 months.

15 And to hear how I have been portrayed in the media,  
16 here in court, sometimes I ask myself, is that really me. You  
17 know, I always thought of myself as someone who looked out for  
18 the disadvantaged, people who had no voice. And I believe,  
19 you know, I was continued -- I was re-elected because my  
20 constituents knew that. And even during the period of time  
21 where I faced all these allegations back in 2014, I was  
22 re-elected again. However, I realize that, you know, no  
23 matter how many positive things you can do in life, you  
24 always -- it can be overshadowed by one incident or a couple  
25 of incidents. It can overshadow everything that you did in



1 life.

2 And I know that a number of years ago I violated my  
3 obligation as a referee and failed to return those funds, and  
4 as a result of that, I made bad decisions. And I understand  
5 that these actions have caused suffering to my family, to my  
6 constituents, and to, you know, my friend, my man Sam Noel,  
7 who is the godfather of my child, my eldest daughter, who's  
8 graduating from Columbia.

9 And, you know, that tears at my -- to hear things  
10 that are said here today, that tears at my soul every single  
11 day because when we grew up, Your Honor, there was nine of us.  
12 And we grew up, you know, some might call it the hood, tough  
13 neighborhoods, and we all made it out of there. But one thing  
14 that we understood, we were always responsible for one  
15 another. And we always looked out for one another.

16 And what bothers me most of all is I violated that.  
17 You know, that's a code that we had amongst ourselves that we  
18 would never put one another in harm's way. We would all be  
19 there to protect them. And for me to do that to my friend  
20 Sam, that tears at me every single day. Every single day,  
21 Your Honor.

22 You know, and I apologized to him. You know, and we  
23 are not supposed to have any sort of communications, and I  
24 have seen him at events with friends, and, you know, I have to  
25 walk away because I can't speak to him. And that tears at me,

1 and I know it tears at him from the conversations that we have  
2 had with our friends.

3           You know, but the bottom line here is, Your Honor,  
4 my parents raised me better than this. And they didn't  
5 sacrifice everything so I could be in this predicament. One  
6 thing my parents always taught me, you know, through faith and  
7 education, will always provide a way for you to be successful  
8 and succeed in life.

9           So, Your Honor, I apologize for my actions, but most  
10 of all, I apologize for not respecting others. Because if I  
11 take into consideration others and not myself, maybe I  
12 wouldn't be in this predicament that I am in today. You know,  
13 and saying that, Your Honor, you know, I accept that there are  
14 consequences for my actions. And all the hard work, and I  
15 worked very hard, extremely hard to get where I was at. You  
16 know, because growing up, you know, I wasn't -- my parents  
17 really didn't think I would amount to anything much because I  
18 had issues when I was a young man, but I worked extremely hard  
19 to get where I am at. And to see that I lost all of that, it  
20 is extremely difficult.

21           But I understand that, you know, I have to, you  
22 know, ask for forgiveness for those who I have harmed. My  
23 family, my constituents, and my man Sam, and understand that,  
24 you know, this chapter is closed. And I hope I am given  
25 another opportunity to rewrite the next chapter, taking into

1 consideration everything that I did, things that I shouldn't  
2 have done, and really exercising better judgment, because  
3 nobody can understand the suffering that I have experienced  
4 for these last few months.

5 Thank you.

6 THE COURT: Thank you.

7 When we started this hearing two hours ago, I laid  
8 out the procedures that we would follow. And I do that  
9 because even though, Mr. Sampson, you have a law degree, even  
10 though you practiced law, even though you have an  
11 understanding more or less, you have experienced counsel, I am  
12 sure they explained what the process would be, I always want  
13 to make sure that the person who sits in your seat has a  
14 complete understanding of just how complicated federal  
15 sentencing is and all that goes into it. And it is important  
16 as well for the public that's here observing today, that they  
17 understand how complicated it is, and it is the hardest  
18 decision that any judge, federal or state, has to make, which  
19 is to sentence an individual. And I think in some ways,  
20 having been a state court judge, I think in some ways federal  
21 judges, while it is harder in some ways, in a way it is better  
22 because I think we have more information on which we can rely  
23 to make the most important decision that we ever have to make.

24 Money is money. It is fungible. You can make it  
25 back again. But when you lose liberty, it is gone. It is

1 gone. And so the lawyers who are here understand that I take  
2 this seriously, and they understand that that's why I asked  
3 for them to put the amount of work that they have put into it.  
4 Both sides have done an extraordinary job in a complicated  
5 case to give the Court and to give probation the most and the  
6 best information possible, and for that, I thank both sets of  
7 lawyers.

8           As I said in the beginning, there is a lot that I  
9 have to take into consideration. We start with the  
10 guidelines, it is important, and that's why we devote quite a  
11 bit of time on it. By the same token, those guidelines are  
12 now advisory. So it is just the starting point. They are not  
13 binding on the Court. The Court has to consider whether or  
14 not there are departures appropriate within that guideline  
15 system. I have considered them.

16           Oh, I did want to note one thing, and I apologize.  
17 The pre-sentence report and the guidelines calculations were  
18 done based on the 2015 guidelines manual. We are now using  
19 the 2016 guidelines manual. That's the manual that is in  
20 effect today. And I did check it very carefully line by line  
21 to make sure that all of the relevant provisions have not  
22 changed because there were some amendments to the new  
23 guidelines, and in connection with this case, there were no  
24 changes. I don't know whether the parties had also taken a  
25 look to make sure that the manuals did not pose, in

1 particular, any ex post facto application.

2 MR. TUCHMANN: We hadn't looked specifically, but we  
3 are not aware of anything that has changed since that would  
4 affect this calculation.

5 THE COURT: Ms. Fiorillo?

6 THE PROBATION OFFICER: There were no changes,  
7 Your Honor.

8 THE COURT: And Mr. Akerman?

9 MR. AKERMAN: I would have to join the government in  
10 the same position, but I will go with Ms. Fiorillo, if she  
11 says there are none --

12 THE COURT: I did review it myself because I always  
13 feel I have the obligation to make sure that I have considered  
14 absolutely everything. So forgive me, I meant to mention that  
15 earlier.

16 And, again, so these are all things that are  
17 important and the Court has to consider. And I mentioned that  
18 because sometimes there are changes to policies and so on that  
19 are relevant for sentencing. That's not the case here, in my  
20 view, taking a look at everything that I have before me.

21 But as I said, that's just the starting point. The  
22 Court considers, as I said earlier, policies reflected in the  
23 guidelines, in the statutes of conviction. And the Court also  
24 has to consider what we've mentioned in this hearing, the  
25 3553(a) factors that are basically codified in the statute, in

1 Title 18 of the United States Code, Section 3553(a). And,  
2 very simply, these are the goals that Congress has determined  
3 should be accomplished any time a federal judge imposes  
4 sentence, and it is those goals that are listed as factors.

5 That statute starts with what's called the parsimony  
6 clause that says that whatever sentence the Court imposes  
7 should not be greater than necessary to achieve those goals of  
8 sentencing. And so what are those goals? Well, not  
9 everything applies in every case. So, for example, this is  
10 not a case where restitution applies, for example. But the  
11 Court has considered the nature and circumstances of the  
12 offenses here, Mr. Sampson's history and characteristics.  
13 There's been a lot of discussion both in the papers and here  
14 today about that.

15 The sentence should reflect the seriousness of the  
16 offenses of conviction, promote respect for the law, provide  
17 just punishment for the offense, afford adequate deterrence to  
18 criminal conduct generally and society as a whole, and protect  
19 the public from further crimes of the defendant, specifically.

20 It should also provide the defendant with any needed  
21 educational or vocational training, I don't think that's an  
22 issue here, medical care, I don't think that's an issue here  
23 as well, or other correctional treatment in the most effective  
24 manner, which I and I think some of my colleagues sometimes  
25 look to rehabilitative potential, if you will.

1           There's been some discussion here today about  
2 potential sentencing disparities, and that's, of course,  
3 another 3553(a) factor.

4           There is no doubt in my mind, having gotten to know  
5 this case very well, there was extensive motion practice. The  
6 Court was forced to dismiss the embezzlement counts because  
7 they were time barred. I know the government has filed a  
8 notice of appeal on the issue. I did what I thought was the  
9 right thing to do under the circumstances here. But, again,  
10 that is something that, as I said earlier, at sentencing, the  
11 proof -- the Court can consider dismissed or acquitted conduct  
12 and other information. I presided over the trial, I heard the  
13 witnesses, I heard the arguments, and then there was post  
14 trial motion practice, and, of course, extensive briefing for  
15 today.

16           These offenses of conviction are serious because  
17 they go to the heart or the integrity of our criminal justice  
18 system. It goes to our process and the integrity of process.  
19 And those are based on constitutional principles that we hold  
20 dear in this country. Soldiers go out there every day and  
21 risk their lives to protect these principles. You have a  
22 right to counsel, you have a right to due process, not to be  
23 deprived of property or liberty without due process. Equal  
24 protection under the laws. We just dedicate -- observed the  
25 holiday of Martin Luther King, who lost his life protecting

1 these rights and urging others to do what they can to protect  
2 these rights. And we are living in a time when our criminal  
3 justice system, our court system as a whole, even in civil  
4 cases, is under attack.

5 And when before the Court is someone who raised his  
6 hand and took an oath to protect and defend and obey the laws  
7 and constitution of this state and of this country, and you  
8 take actions that go towards attacking the integrity of the  
9 process, I don't know of any more serious offense.

10 Thankfully, no actual steps were taken to tamper with  
11 witnesses in Ahmad's mortgage fraud case. It is serious  
12 enough, in my view, that you took steps to effect their right  
13 to independent unfettered counsel. Such an important right.

14 You did tamper, to a certain degree, with Ahmad, who  
15 was a potential witness, or with evidence, depending on how  
16 you look at it, that he was instructed by subpoena to provide  
17 to the government, the check register page.

18 And the arguments by the defense that it was Ahmad  
19 who made the suggestion that you not give it to the government  
20 are so disingenuous. We sat here and looked at the video of  
21 that encounter in the Vetro restaurant. And when you saw that  
22 page, the first words out of your mouth were, "Oh. This isn't  
23 good. For me, I mean." Maybe not exactly in those words, but  
24 pretty close.

25 And for what seemed to be a really long time, you



1 sat there and you looked at it, and you looked at it, and you  
2 looked at it, and you looked at it. And you made sure that  
3 Ahmad couldn't give it to the government by taking it, knowing  
4 it was his only copy. So, in essence, you did tell him the  
5 truth. "I am not going to tell you not to lie, just tell them  
6 you don't have it," because you made sure he didn't have it.  
7 Pictures's worth a thousand words. All you have to do is see  
8 that video.

9 And, then, when confronted by the FBI agents and  
10 asked whether you had seen that very same document that you  
11 had sat there and stared at and stared at and stared at, and  
12 then took, and deny recalling seeing it ever, and make  
13 additional false statements about the liquor store, and when  
14 they tell you, "Oh, you know, it is a federal offense to lie  
15 to a federal law enforcement officer," and your response was,  
16 "Not everything I said was a lie."

17 Well, what does that mean? That means some of it  
18 was a lie. You had to know, as an attorney, that it would be  
19 a violation of the law to lie to a federal officer. And at  
20 the root of all of this, the root of all of this is some idea  
21 that you picked up along the way that you had a right to  
22 dispense with your ethical obligations, to dispense with your  
23 duties as an officer of the court, to violate the court orders  
24 appointing you as a referee of the Kings County Supreme Court,  
25 a big trust, to proceed over foreclosures. Lots of money in

1 foreclosures. \$440,000 over four properties. That's a lot of  
2 money that you put in your pocket.

3 And as I sat there reading the letters of people who  
4 said, "Yeah, well, you know, he paid for, you know, this  
5 person's medical expenses, and he paid for this person to  
6 repair his home, or he provided this or provided that," I had  
7 to wonder whether that money didn't come from some of these  
8 embezzled funds.

9 You just dispensed with your obligations altogether  
10 to the Supreme Court of this state, to the people of this  
11 state. Because those surplus funds were supposed to go to a  
12 court, a court strapped for money. As a legislator, you know  
13 that the budget for the state supreme -- for the state courts  
14 is always a serious issue. They always work at a deficit.  
15 And that money, I am sure, could have gone to some good use.  
16 But you wanted to cover -- once you got some inkling that that  
17 had to be covered up, then everything was put in motion.

18 It is disturbing that you actually, again, abused  
19 your position as an attorney. You represented yourself. You  
20 held yourself out to be an attorney for Ahmad when the state  
21 banking people and the state -- department of state people  
22 came to take his records away. You showed up right away. You  
23 tried to stop it. You tried to use your influence. It didn't  
24 stop them. Now you had to do triage. And then comes the  
25 Hansraj affidavit.

1           You told Ahmad, "Don't be the fall guy. Let some  
2 one of your other flunkies be the fall guy." That's what that  
3 affidavit was about, was somebody else being the fall guy  
4 because you needed Ahmad. You used an expired notary license,  
5 you didn't follow any of the procedures that you were supposed  
6 to do, again, violating your ethical obligations.

7           It is disturbing that we have a pattern here, as set  
8 forth in the other acts that the government has discussed at  
9 length, and I don't think that I need to review it. It is in  
10 the papers. It is in the pre-sentence report. The failure to  
11 disclose on the financial disclosure report that you had all  
12 along, that you owned an interest in the liquor store, you had  
13 an obligation to disclose. And that is under penalty of  
14 perjury. The fact that you were not actually prosecuted for  
15 it, I say shame on the state agencies for not being more  
16 diligent about it. I think there was also some other state  
17 proceeding, if I am recalling from the trial or from the  
18 papers, the motion papers, a state proceeding where you went  
19 to represent Ahmad, even though as a member of the Senate you  
20 couldn't go there and represent him.

21           Where it has suited you in your own purpose, you  
22 have sidestepped your obligations, you have sidestepped the  
23 law, and you have used it to your benefit. And if it hurts  
24 somebody else, well, so be it. You knew somewhere in the back  
25 of your mind if you got caught, there would be consequences,

1 and the consequences would be you would lose your Senate  
2 position, you would lose your license. Yes, there would be  
3 humiliation and shame because you are a public figure, a  
4 famous public figure.

5 And the collateral consequences on your family and  
6 on your children. I am glad your older daughter is inspired  
7 to be a lawyer. I hope she becomes a great lawyer. In a way,  
8 she's made lemonade out of lemons.

9 The consequences to your man, I have to tell you,  
10 that made my skin crawl. Because I saw that man testify here,  
11 and it is a tragedy what happened to that man. A tragedy.  
12 You all came from bad neighborhoods. I knew what that is. I  
13 grew up in the South Bronx in the projects. Nobody has to  
14 tell me. I know. I know what it takes to pull yourself out  
15 of there. It is not easy. But for a person that you  
16 supposedly have a close familial bond, clearly a person who  
17 has devoted himself to doing good, by the testimony that he  
18 gave. I will never forget his testimony about, you know,  
19 working, I think he was working as a courier, and he was  
20 walking around with his resume in his pocket just waiting for  
21 the opportunity. He makes a delivery to the US Attorney's  
22 office in this district, and he says, there's an opportunity  
23 here. I am going to take my resume. And the rest was  
24 history, and he rose through the ranks. And he was a beloved  
25 employee. Highly trusted. He highly trusted you, his man.

1 The father of his goddaughter. He talked about how you all  
2 went to each other's weddings and took care of each other's  
3 family and all of that. And you preyed on that without ever  
4 once thinking about what it meant to him, about the fact that  
5 he would lose his pension that he worked so hard for. A real  
6 self-made person. A real success story that we don't hear  
7 enough of from our poor communities, you, yourself, destroyed,  
8 destroyed, and for what? You knew what you were asking him to  
9 do was wrong. He knew in his heart of hearts, but this was  
10 family. And you were counting on that. And you played on  
11 that. And you dragged him down with you.

12 It is also disturbing to the Court, and I have  
13 discussed it, I think enough, I don't need to go over it much  
14 more, that despite all of this, despite knowing that you could  
15 be facing a possibility of up to ten years for obstruction of  
16 justice, I could impose the sentences to run consecutively,  
17 that you would still, in violation of an order of the state  
18 court, go out there and represent -- practice law and  
19 represent somebody without having a license.

20 You sit here and tell me that you apologize, that  
21 you feel remorse, that you -- that it is lack of judgment or  
22 whatever, some prior lack of good judgment. Well, when is it  
23 going to end? I mean, you did that within days of the order  
24 coming down.

25 I understand that you have done some good things.

1 The letters attest to it. I don't think that you would have  
2 gotten re-elected so many times if your constituents didn't  
3 think that you were doing good things for them. I believe  
4 they are sincere in what they say. But I have to concur with  
5 the government, that that's what you are supposed to do as an  
6 elected official. A person representing their neighborhood,  
7 whether it is in the Assembly or in the state Senate or in  
8 Congress, is supposed to look out for their people and address  
9 their issues, and make sure that they are taken care of, and  
10 make sure that in a time of natural disaster they have a dry  
11 home to sleep in, that they have food, they have medical care.  
12 That the schools are good for all the kids. That there's  
13 health care for everybody. That there's diversity in the  
14 judiciary and in other aspects of government. That's what a  
15 good public servant is supposed to do. And maybe occasionally  
16 you did go above and beyond that.

17 But I do not believe that those acts of public  
18 service, those good acts of public service, warrant the kind  
19 of variance downward that your attorneys are looking for  
20 because it doesn't wipe out all these other aggravating  
21 factors that I have just talked about. There has to be a  
22 sense that we give to the public that we are going to  
23 safeguard the integrity of our system. That we are going to  
24 safeguard the constitutional principles that we hold dear.  
25 That we will hold our public officials to a higher standard,

1 that we will hold our attorneys to a higher standard.

2 The Court sentences you as follows: As to Count 4,  
3 to 60 months, as an upward variance, of custody.

4 As to count -- that became Count 9, correct? I am  
5 having trouble.

6 MR. TUCHMANN: There was a Count 4. You are  
7 referring to the obstruction count?

8 THE COURT: No. The first statement, false  
9 statement count. That become Count 9, under the superseder,  
10 right?

11 MR. TUCHMANN: In the --

12 THE COURT: I am having trouble reading my  
13 handwriting.

14 MR. TUCHMANN: Sure. Your Honor, in the sixth  
15 superseding, in the superseding indictment, the one that was  
16 put in front of the jury, which relates to the false  
17 statements, the check register page --

18 THE COURT: We are changing the -- it is Count 9.  
19 It is Count 9. We are changing it to reflect the fifth  
20 superseder, correct?

21 And Count 11, as to each one of the false  
22 statements, 60 months custody on each count, all sentences to  
23 run concurrent with each other, each one followed by three  
24 years of supervised release. The terms of supervised release  
25 to run concurrent with each other, as well.

1           A fine is imposed in the amount of \$75,000, payable  
2     in the amount of \$25 per quarter while in custody, and 10  
3     percent the gross income, monthly income, while on supervised  
4     release.

5           One thing that bears mention. For the life of me, I  
6     cannot understand what kind of monetary incentive there was  
7     for the embezzlement, in particular, given that your wife  
8     earns almost three-quarters of a million dollars per year as a  
9     partner at a highly prestigious international CPA firm. You  
10    did well yourself. What level of greed do you have to have to  
11    have to engage in this conduct?

12           Special conditions of supervised release include the  
13    following: No possession of a firearm, ammunition or  
14    destructive device. Compliance with the fine order. Full  
15    financial disclosure to probation. If requested, you must  
16    provide commingled income, expenses, assets and liabilities,  
17    including yearly income tax returns, with the exception of the  
18    financial accounts reported and noted within the pre-sentence  
19    report. You are prohibited from maintaining and/or opening  
20    any additional individual and/or joint checking, savings, or  
21    other financial accounts for either personal or business  
22    purposes, without the knowledge and approval of the probation  
23    department.

24           You shall cooperate with the probation officer in  
25    the investigation of your financial dealings and provide



1 truthful monthly statements of your income and expenses. You  
2 must cooperate in the signing of any necessary authorization  
3 to release information forms permitting the probation  
4 department access to your financial information and records.

5 You must not encumber or liquidate any interest in  
6 any assets unless it is direct service of the fine obligation  
7 or otherwise has the express approval of the court.

8 You must maintain verifiable lawful employment.

9 There is a special assessment of \$100 that is  
10 imposed.

11 Restitution and forfeiture are not applicable here.

12 MR. TUCHMANN: If I may, Your Honor, just for  
13 special assessment, is it a \$100 --

14 THE COURT: I'm sorry. It is \$100 per count, for a  
15 total of \$300. Thank you.

16 To be clear, the sentence is 60 months custody of  
17 the Attorney General on each count, to run concurrent with  
18 each other.

19 A request was made for recommendation to the Bureau  
20 of Prisons that the defendant be housed in FCI Otisville,  
21 correct?

22 MR. AKERMAN: That's correct, Your Honor.

23 THE COURT: There was a request about a minimum  
24 security facility within that facility. I cannot make that  
25 kind of a recommendation. The level of security housing is

1 purely up to the discretion of the Bureau of Prisons and is  
2 not within the purview of the Court. And, of course, I will  
3 make, however, a recommendation that he be housed in FCI  
4 Otisville, with the understanding, Mr. Sampson, that while the  
5 Bureau of Prisons has assured the Court that it will do what  
6 it can to comply with the recommendation made by the Court,  
7 that, ultimately, where you are housed depends on the number  
8 of factors and is ultimately within the discretion of the  
9 Bureau of Prisons. You understand that?

10 There was also a request that the defendant be  
11 allowed to voluntarily surrender. I know that the status  
12 report from pretrial services said he is a viable candidate  
13 for voluntary surrender.

14 Any objection by the government?

15 MR. TUCHMANN: No, Your Honor.

16 MR. AKERMAN: Your Honor, one additional request.

17 THE COURT: Yes.

18 MR. AKERMAN: We would also ask that Mr. Sampson  
19 remain free pending appeal in this case.

20 THE COURT: Well --

21 MR. AKERMAN: Do you want me to talk further about  
22 that?

23 THE COURT: Yes. I have not considered that, and I  
24 don't know if the government wants to be heard.

25 MR. AKERMAN: Maybe --

1 THE COURT: I considered voluntary surrender, but  
2 not bail pending appeal.

3 MR. AKERMAN: I understand.

4 Basically, there's two factors to allowing a  
5 defendant to be released pending appeal. One, that there's  
6 clear and convincing evidence that the person is not likely to  
7 flee or pose a danger to the safety of any other person in the  
8 community. And I think clearly that's a situation,  
9 Mr. Sampson has been punctual at court, he has been here all  
10 the time. I think Your Honor found that after the jury came  
11 in, it's continued to be true.

12 And the second factor is that the appeal raises a  
13 substantial question of law or fact that would result in  
14 reversal of a new trial or a sentence that does not include a  
15 term of imprisonment. In this case, Your Honor, there is  
16 never -- the Second Circuit has never addressed the issues  
17 that we raised on the witness tampering versus the 1512 versus  
18 the 1503. Those are all issues that will be a first  
19 impression in the Second Circuit.

20 There's also the issue on the false statement  
21 claims -- charges, respecting the actually putting into  
22 evidence the underlying contemporaneous statement, the notes.  
23 I don't believe any court has ever addressed that particular  
24 issue.

25 So there are definitely issues that raise

1 substantial issues of law or fact that would be significant  
2 here. And for that reason, we would ask that Mr. Sampson be  
3 permitted to be out pending appeal.

4 THE COURT: Does the government wish to be heard?

5 MR. SOLOMON: Yes, Your Honor. We oppose that  
6 application for several reasons. First of all, the defendant  
7 does maintain significant ties to the country of Guyana, and  
8 given the sentence of 60 months that Your Honor has imposed  
9 here, that provides extra incentive for him to flee.

10 Additionally, the defendant did not raise or mount  
11 Rule 29 arguments as to all counts of conviction. As  
12 Your Honor no doubt is aware, you applied a sentence of 60  
13 months as to all counts of conviction. Therefore, even were  
14 the defendant to prevail on his rather novel theory as to  
15 obstruction of justice, it would be harmless error as the  
16 conviction of 60 months would still stand.

17 MR. AKERMAN: If I might just respond briefly,  
18 Your Honor.

19 THE COURT: Yes.

20 MR. AKERMAN: We did not raise the Rule 29 as to the  
21 count in the liquor store, however, we are going to raise on  
22 appeal the fact that the Court did not permit into evidence  
23 the underlying statement that was taken, the contemporaneous  
24 notes that were done by the FBI agents, which we think are  
25 critical to really explaining Mr. Sampson's state of mind and

1 whether or not he lied. Your Honor didn't allow that into  
2 evidence. This is an issue that has never been brought before  
3 any appeals court that we're aware of, and does raise a  
4 substantial question of law or fact that we would be bringing  
5 to the Second Circuit. It wasn't appropriate to bring on a  
6 Rule 29 motion, since it did not go to the weight of the  
7 evidence -- didn't go to the -- an issue that was appropriate  
8 for a Rule 29 issue. It really is an evidentiary issue that  
9 is appropriate for appeal and not Rule 29.

10 MR. SOLOMON: Your Honor, just briefly.

11 THE COURT: Any response?

12 MR. SOLOMON: Yes. It is our view that that  
13 argument betrays a fundamental lack of understanding as to the  
14 rules of evidence, that he would somehow admit agent notes  
15 into evidence. And we went over this at length at trial. And  
16 I think that's almost an entirely spurious argument.

17 MR. AKERMAN: If I might just respond briefly.  
18 Mr. Sampson has been charged with perjury in a grand jury.  
19 Certainly, the grand jury minutes would have been admissible.  
20 We would argue the same for the notes. Since it really isn't  
21 for -- it goes to what was said and the context in which it  
22 was said. And that is an issue that has never been brought  
23 before the Court of Appeals before.

24 THE COURT: The request for bail pending appeal is  
25 denied. Defendant does continue to have ties to Guyana. The

1 sentence is certainly incentive to flee, especially in light  
2 of the arguments that were made by defense here today. I  
3 don't hold the same view of the issues that you purport to  
4 raise on appeal. So the request for bail is denied.

5           Given how long it will take for a designation,  
6 defendant is to voluntarily surrender at the designated  
7 facility at 9:30 in the morning on April 21, which is a  
8 Friday.

9           You are advised -- I think that as far as the  
10 sentence is concerned, is there anything else other than I am  
11 about to advise Mr. Sampson of his right to appeal?

12           MR. SOLOMON: The only other issue, Your Honor, is  
13 the outstanding counts of the underlying indictments.

14           THE COURT: Yes. Well, as to superseding indictment  
15 5, he was acquitted of the counts that were submitted. The  
16 underlying indictments remain open.

17           MR. SOLOMON: We move to dismiss them at this time,  
18 with the exception of the two embezzlement counts, which  
19 Your Honor has already dismissed, and they are now the subject  
20 of appeal from the fifth superseding indictment.

21           THE COURT: I except the embezzlement counts from  
22 the fifth superseding indictment.

23           The interest is waived on the fine.

24           Mr. Sampson, you are advised that you have a right  
25 to appeal from the sentence and judgment of the Court. You

1 may be entitled to be represented by counsel on appeal. If  
2 you cannot afford counsel, you may ask for the court to  
3 appoint counsel for you at no cost to you. If you cannot  
4 afford the fees and the cost of the appeal, you may ask for  
5 leave from the court to appeal by way of poor person relief.

6 And, of course, Counsel, I would ask that you all  
7 remain on the case for that requisite 14-day period. If you  
8 are going to appeal, you must do so within 14 days of the  
9 final entry of judgment. So I would ask that counsel stay on  
10 the case for that requisite period and file such a notice on  
11 behalf of Mr. Sampson, if that is his desire.

12 Anything else?

13 MR. SOLOMON: Not from the government. Thank you,  
14 Your Honor.

15 THE COURT: Counsel?

16 MR. AKERMAN: Nothing else, Your Honor. Thank you.

17 THE COURT: Thank you.

18 (Proceedings concluded at 12:58 p.m.)

19 \* \* \* \* \*

20 **REPORTER'S CERTIFICATE**

21 I, ANNETTE M. MONTALVO, do hereby certify that the above  
22 and foregoing constitutes a true and accurate transcript of my  
23 stenographic notes and is a full, true and complete transcript  
24 of the proceedings to the best of my ability.

25 Dated this 13th day of February, 2017.

/s/Annette M. Montalvo  
Annette M. Montalvo, CSR, RDR, CRR  
Official Court Reporter